

# Exhibit 4

Christopher Honea <chonea@ghiplaw.com>

August 22, 2013 6:18 PM

To: "Murphy, Michael T" <michael.murphy@klgates.com>

Cc: Peter Brasher <pbrasher@ghiplaw.com>, "Hwang, Daniel In" <Daniel.Hwang@klgates.com>, "Schortgen, Steven G." <Steven.Schortgen@klgates.com>, "Ayers, Jennifer Klein" <jennifer.ayers@klgates.com>, Randall Garteiser <randall.garteiser@sftrialattorneys.com>

Re: [Blue Spike] Motion for Jurisdictional Discovery

Mike,

I don't think the record will reflect exceptional cooperation - maybe feigned cooperation. Moreover, Blue Spike would never have agreed to forego its right to depose a corporate representative on the issue of jurisdiction, if it was going to be needed, just for interrogatory responses. If you disagree, and there was a misunderstanding, then we will file an opposed motion for complete jurisdictional discovery. If that's where we end up, we encourage Agnitio to supplement its responses in the meantime, however, because if the supplemental responses are sufficient for Blue Spike to supplement its response to Agnitio's motion, then it will no longer need to seek full discovery. Please advise by Monday, August 26th if Agnitio will agree to jurisdictional discovery as we understood it. Otherwise, we will file the opposed motion seeking complete jurisdictional discovery.

Regards,



**Christopher A. Honea** / Partner  
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On Aug 22, 2013, at 3:56 PM, Murphy, Michael T wrote:

Chris

To be clear, we have been exceptionally cooperative, including voluntarily answering interrogatories without the need for Plaintiff to file a motion permitting such discovery.

We did not agree to supplement the responses, but rather to review the responses. Due to other pressing cases we have been unable to reply substantively to you.

In any event, we do expect to be able to supplement next week when a client representative will return from summer holidays.

As far as the draft Motion, it does not accurately capture our agreement. Defendant answered the interrogatories in exchange for Plaintiff's agreement to forego a deposition on the jurisdictional issue. I saw Peter's email earlier today where Plaintiffs now contend they only agreed to "temporarily" forego a deposition. That was simply not the agreement.

I will reply more detail on the draft order separately.

Regards

Mike

---

**From:** Christopher Honea [mailto:[chris.honea@sftrialattorneys.com](mailto:chris.honea@sftrialattorneys.com)]

**Sent:** Tuesday, August 20, 2013 12:02 PM

**To:** Christopher Honea

**Cc:** Peter Brasher; Hwang, Daniel In; Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; Randall Garteiser

**Subject:** Re: [Blue Spike] Motion for Jurisdictional Discovery

Mike,

I think we've met and conferred on these issues, so if we don't get a response we will file a motion to compel and indicate your extreme lack of responsiveness. You agreed on the meet and confer to supplement the responses below by the next week, and not only did you mislead us on that, you have failed to respond in any manner to our inquiries for a month. Please advise by the end of the week or we will be forced to alert the court of this misconduct.

On Aug 13, 2013, at 10:03 AM, Christopher Honea <[chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)> wrote:

Counsel for Agnitio:

Please let us know where we stand on the supplemental responses and agreed motion Agnitio agreed to over three weeks ago. Thank you,



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On Jul 22, 2013, at 2:41 PM, Peter Brasher wrote:

Dear Michael,

Per our phone conversation on Thursday July 18, you agreed to review your answers to the following interrogatories according to these assertions we made.

[This summary is provided by way of reference only and all answers should be provided according to the Definitions, Instructions, and Interrogatories previously provided.]

Interrogatory 1: The Interrogatory requests information about Agnitio's customers in Texas. Your Client answers that it has no "Texas customers;" clarify whether or not Agnitio has clients that are *in* Texas or operate in Texas.

Interrogatory 3: The Interrogatory requests information regarding instances of field use of Agnitio's products. Agnitio denies that *it* has used its products in Texas but does not address use of the product by customers or clients in Texas. Clarify.

Interrogatory 4: The Interrogatory requests information about *all* contact by Agnitio or Agnitio's products with the State of Texas *or* law enforcement, security, and military intelligence in Texas *including* all persons who have registered, requested, or signed up for Agnitio's products via Agnitio's website. Agnitio limits its response to law enforcement, security, and military intelligence agency in Texas that have registered, requested, or signed up for Agnitio's product via Agnitio's website. Clarify if there is any contact with anyone by Agnitio or Agnitio's products with Texas via any means. Clarify if there are any law enforcement, security and military intelligence agencies in Texas that have registered or requested Agnitio's products via any means.

Interrogatory 5: The Interrogatory states, "Identify" all contact by Agnitio with a resident of Texas relating to Agnitio's business. Agnitio's response states that it is aware that it has communicated with Texas residents employed by non Texas-based companies. Per the definition of "Identify" in the Interrogatories, provide (1) the person's full name or title, last known address, and telephone number; (2) the person's present employer(s) and place(s) of employment; and (3) the person's job title or position held.

Interrogatory 6: The Interrogatory requests information regarding all sales and distribution of Agnitio's products in Texas, including through third parties not directly associated with Agnitio. Agnitio limits its response to its own sales and distribution. Clarify if there are any third parties that sell or distribute Agnitio's products in or to the state of Texas.

Please find attached a proposed Unopposed Motion for Jurisdictional Discovery stating our mutual understanding that we would serve interrogatories and that the parties would then meet and confer regarding the need for document requests and depositions after reviewing and discussing Agnitio's answer to the Interrogatories.

Regards,

Peter Brasher

Garteiser Honea - Trial Attorneys

[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)

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<2013.07.18 PO Granting Unopposed Motion for Leave to Serve Jurisdictional Discovery on Agnitio.pdf>

On Jul 17, 2013, at 9:11 AM, "Hwang, Daniel In" <[Daniel.Hwang@klgates.com](mailto:Daniel.Hwang@klgates.com)> wrote:

Dear Peter,

We will not be able to meet today. Can you meet tomorrow, Thursday at 12:30PST/2:30Central?

Regards,  
Daniel

---

**From:** Peter Brasher [mailto:[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)]  
**Sent:** Tuesday, July 16, 2013 7:09 PM  
**To:** Hwang, Daniel In  
**Cc:** Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; 'Randall Garteiser'; Christopher Honea  
**Subject:** Re: [Blue Spike] Motion for Jurisdictional Discovery

Daniel,

I wanted to follow-up. Will tomorrow around 1 pm PST work for a meet and confer? If not, please let us know another time that will.

Peter Brasher  
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On Jul 15, 2013, at 1:58 PM, Peter Brasher <[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)> wrote:

Will Wednesday at 1 pm PST work? We could also talk later that afternoon.

Peter Brasher  
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On Jul 15, 2013, at 6:36 AM, "Hwang, Daniel In" <[Daniel.Hwang@klgates.com](mailto:Daniel.Hwang@klgates.com)> wrote:

Peter,

Unfortunately, the earliest we are available is Wednesday afternoon. Are you available then or later in the week?

Regards,  
Daniel

---

**From:** Peter Brasher [mailto:[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)]  
**Sent:** Monday, July 15, 2013 8:09 AM  
**To:** Hwang, Daniel In

**Cc:** Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; 'Randall Garteiser'; Christopher Honea  
**Subject:** Re: [Blue Spike] Motion for Jurisdictional Discovery

Will tomorrow, Tuesday July 16th, at 1 pm PST work?

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On Jul 10, 2013, at 4:58 PM, "Hwang, Daniel In" <[Daniel.Hwang@klgates.com](mailto:Daniel.Hwang@klgates.com)> wrote:

Dear Peter,

Unfortunately, it will be difficult to meet this week. Please let us know your availability for next week so we can schedule the meet and confer.

Regards,  
Daniel

---

**From:** Peter Brasher [mailto:[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)]  
**Sent:** Tuesday, July 09, 2013 6:29 PM  
**To:** Hwang, Daniel In  
**Cc:** Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; 'Randall Garteiser'; Christopher Honea  
**Subject:** Re: [Blue Spike] Motion for Jurisdictional Discovery

Daniel,

We have received and reviewed your client's responses to the interrogatories. Can lead and local counsel meet and confer on these answers this Friday, July 12?

Thank you.

Peter Brasher  
Garteiser Honea - Trial Attorneys  
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On Jul 3, 2013, at 2:19 PM, "Hwang, Daniel In" <[Daniel.Hwang@klgates.com](mailto:Daniel.Hwang@klgates.com)> wrote:

Dear Peter,

Attached are a copy Agnitio's Responses to Blue Spike's First Set of Interrogatories which were served via first class mail today.

Regards,  
Daniel

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**From:** Hwang, Daniel In

**Sent:** Thursday, June 27, 2013 5:21 PM  
**To:** 'Peter Brasher'; Christopher Honea  
**Cc:** Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; Randall Garteiser  
**Subject:** RE: [Blue Spike] Motion for Jurisdictional Discovery

Peter,

Thank you for conferring with us telephonically on Tuesday June 25 and today regarding Blue Spike's requests for jurisdictional discovery.

This confirms that:

- Blue Spike agree to foregoes its request for a 30(b)(6) deposition;
- Agnitio agrees to answer Blue Spike's jurisdictional interrogatories (attached) by July 3, 2013; and
- Blue Spike's requests for production are still under discussion.

Once you have reviewed Agnitio's answers, if you have any further specific concerns or believe the document requests would still have a bearing on the jurisdictional issue, we agree to meet and confer at that time before reverting to any motion practice before the Court.

Have a good weekend.

Regards,  
Daniel

---

**From:** Peter Brasher [mailto:[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)]  
**Sent:** Monday, June 24, 2013 5:14 PM  
**To:** Christopher Honea  
**Cc:** Hwang, Daniel In; Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; Randall Garteiser  
**Subject:** Re: [Blue Spike] Motion for Jurisdictional Discovery

Good afternoon Daniel,

We did not hear back from you regarding a day and time to meet and confer on the issue of jurisdictional discovery. Will tomorrow at noon PST work? If not please notify us of a different day and time.

Regards,

Peter Brasher  
Garteiser Honea - Trial Attorneys  
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On Jun 21, 2013, at 11:17 AM, Christopher Honea <[chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)> wrote:

Thank you, Daniel. How about noon PST next Tuesday?

Christopher A. Honea  
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On Jun 20, 2013, at 11:19 AM, Hwang, Daniel In wrote:

Dear Christopher,

Thank you for your email. What times are you available tomorrow or early next week for a meet and confer?

Regards,  
Daniel

---

**From:** Christopher Honea [mailto:[chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)]  
**Sent:** Tuesday, June 18, 2013 11:51 AM  
**To:** Hwang, Daniel In  
**Cc:** Peter Brasher; Murphy, Michael T; Schortgen, Steven G.; Ayers, Jennifer Klein; Randall Garteiser  
**Subject:** Re: [Blue Spike] Motion for Jurisdictional Discovery

Hi Daniel,

Blue Spike sent over the proposed discovery in an effort for Agnitio to understand what Blue Spike is seeking, so I don't see how we could get any more specific than that. The declaration does not completely address all activities that may result in specific jurisdiction, some of which could be similar to the circumstances in the attached recent order from Judge Schneider.

Please let us know when lead counsel and any local counsel is available this week to meet and confer by telephone per LR 7(h). Regards,

Christopher A. Honea  
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On Jun 14, 2013, at 8:38 AM, Hwang, Daniel In wrote:

Dear Peter,

I am assisting Mike Murphy in this matter. Thanks for this, but we can not agree to service of any of this discovery.

First, Agnitio will not agree to a jurisdictional discovery deposition. Agnitio does not have any ties to the forum, and this request is overly burdensome.

Second, Agnitio's responses and declarations already provide more than sufficient responses to all of the information that Blue Spike's discovery requests seek. These requests do not take into account the information Agnitio has provided to Blue Spike in the Declaration and Supplemental Declaration of Mr. Castano. Agnitio need not repeat itself nor parse Blue Spike's generic requests which are nearly identical to those sent to other defendants.

If Blue Spike can clarify what specific information it seeks - not covered by the comprehensive facts Agnitio has already provided - and why it would assist in the Court's determination of jurisdiction, we will consider that.

Regards,  
Daniel Hwang

----- Original Message -----

Subject: Re: [Blue Spike] Motion for Jurisdictional Discovery  
From: Peter Brasher <[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)>  
To: "Murphy, Michael T" <[michael.murphy@klgates.com](mailto:michael.murphy@klgates.com)>  
CC: "Schortgen, Steven G." <[Steven.Schortgen@klgates.com](mailto:Steven.Schortgen@klgates.com)>, "Ayers, Jennifer Klein" <[jennifer.ayers@klgates.com](mailto:jennifer.ayers@klgates.com)>, randall garteiser <[rgarteiser@ghiplaw.com](mailto:rgarteiser@ghiplaw.com)>, Christopher Honea [chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)  
Mike,

Per your request, I have attached here three discovery documents for you to review and to understand the scope of discovery

we anticipate. Any objection you may have to the scope and content should be addressed in Agnitio's responses, not on the issue of whether discovery should be served.

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<Agnitio 30(b)(6).pdf>  
<Agnitio RFP's.pdf>  
<Agnitio Rogs.pdf>

On Jun 5, 2013, at 9:29 AM, "Murphy, Michael T" <[michael.murphy@klgates.com](mailto:michael.murphy@klgates.com)> wrote:

**Peter,**

**We believe our Reply**

**(1) adequately addresses the assumptions Plaintiff made in both its Complaint and its Response to our Motion to Dismiss for Lack of Personal Jurisdiction and**

**(2) clearly demonstrates that Plaintiff lacks personal jurisdiction over Defendant Agnitio Corp.**

**Nevertheless, if after reviewing our Reply and Mr. Castano's supplemental declaration, you in good faith still believe jurisdiction discovery is justified, we will consider your request.**

**Please provide a copy of the jurisdictional discovery that you intend to serve on Defendant Agnitio Corp. We will review it and let you know if we oppose the Motion.**

**Regards  
Mike**

**K&L GATES**

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---

**From:** Peter Brasher [<mailto:pbrasher@ghiplaw.com>]  
**Sent:** Monday, June 03, 2013 2:28 PM  
**To:** Schortgen, Steven G.; Ayers, Jennifer Klein  
**Cc:** randall garteiser; Christopher Honea  
**Subject:**

Counsel,

As you know, you have filed a motion to dismiss for lack of personal jurisdiction on behalf of your client Agnitio Corp. in an action brought by Blue Spike, LLC in E.D. Tex. Although we believe we have shown the court does have personal jurisdiction, recent orders have suggested that plaintiff must be proactive in attaining jurisdictional discovery in case the court



disagrees (see attached). Therefore, we will move for authorization to serve limited jurisdictional discovery before the Rule 26(f) conference. Please let us know if you are unopposed. If opposed, please let us know when lead counsel and local counsel are available to meet and confer by telephone on the issue.

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<2012.09.21 Schneider denying MTD and granting juris discovery.pdf>  
<2012.09.25 Craven granting juris discovery.pdf>  
<2012.09.26 Craven granting juris discovery.pdf>

Regards,

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<Agnitio Responses to BS First Set of Interrogatories\_.pdf>



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